



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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SEP 16 2010

Ref: 8EPR-EP

L. David Glatt, Chief
Environmental Health Section
North Dakota Department of Health
918 East Divide Avenue
Bismarck, ND 58501-1947

Subject: EPA Action on Revisions to *Standards of Quality*
for *Waters of the State*

Dear Mr. Glatt:

The U.S. Environmental Protection Agency (EPA) has completed its review of the revisions to *Standards of Quality for Waters of the State* adopted by the North Dakota State Health Council (Council) on April 28, 2010. Receipt of the revised standards and Attorney General certification on June 15, 2010, initiated EPA's review pursuant to Section 303(c) of the Clean Water Act (CWA or the Act). On July 14, 2010, EPA completed a partial action that approved all revisions, with the exception that no action was taken on the revisions for the Sheyenne River and the revisions for reservoirs. Today's action addresses only the revisions that were not acted upon in our July 14, 2010, letter.

CLEAN WATER ACT REVIEW REQUIREMENTS

The Clean Water Act, Section 303(c)(2), requires States and authorized Indian Tribes to submit new or revised water quality standards to EPA for review. EPA is to review and approve or disapprove the submitted standards. Pursuant to CWA Section 303(c)(3), if EPA determines that any standard is not consistent with the applicable requirements of the Act, the Agency shall, not later than the ninetieth day after the date of submission, notify the State or authorized Tribe and specify the changes to meet the requirements. If such changes are not adopted by the State or authorized Tribe within ninety days after the date of notification, and where necessary to meet the requirements of the Act, EPA shall promulgate the needed standard pursuant to CWA Section 303(c)(4). EPA's goal has been, and will continue to be, to work closely with States and authorized Tribes throughout the standards revision process as a means to avoid the need for such disapproval and promulgation actions.



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TODAY'S ACTION

Today the Region is approving the revisions to water quality standards for the Sheyenne River and disapproving the revisions for reservoirs. Enclosure 1 presents a summary of the adopted revisions and a rationale for EPA's action.

The water quality standards approvals in today's letter apply only to water bodies in the State of North Dakota, and do not apply to waters that are within Indian country, as defined in 18 U.S.C. Section 1151. "Indian country" also includes any land held in trust by the United States for an Indian tribe and any other areas defined as "Indian country" within the meaning of 18 U.S.C. 1151. Today's letter is not intended as an action to approve or disapprove water quality standards applying to waters within Indian Country. EPA, or authorized Indian Tribes, as appropriate, will retain responsibilities for water quality standards for waters within Indian country.

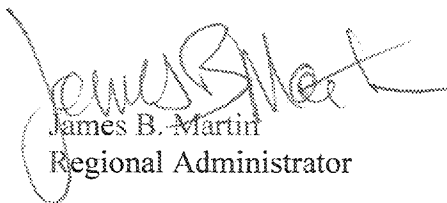
ENDANGERED SPECIES ACT REQUIREMENTS

Today's action includes a finding that EPA's approval/disapproval of the water quality standards revisions will have no effect on listed or proposed endangered or threatened species, or is otherwise not subject to ESA consultation. As a result, for the revisions addressed today, no consultation with the U.S. Fish and Wildlife Service is required.

CONCLUSION

Regarding the Sheyenne River revisions, EPA Region 8 congratulates the Department and Council for today's approval and appreciates the efforts by the Department to address and resolve the issues raised by the Region during the rulemaking process. Regarding the revisions for reservoirs, the issues appear to be resolvable and the Region looks forward to working with the Department to review alternative approaches that comply with CWA requirements. If you have questions concerning this letter, the most knowledgeable person on my staff is David Moon and he can be reached at (303) 312-6833.

Sincerely,



James B. Martin
Regional Administrator

Enclosure